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7 WARING PARK,
8 Plaintiff,
9 v.
10 UNITED STATES,
11 Defendant.

Case No. [18-cv-06621-SI](#)

**ORDER DISMISSING AMENDED
COMPLAINT WITH LEAVE TO
AMEND**

Re: Dkt. Nos. 10, 11

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13 Plaintiff Waring Park has filed this lawsuit *pro se* and has been granted leave to proceed *in
14 forma pauperis*, without prepayment of the filing fees. *See* Docket No. 8. The Court previously
15 reviewed the complaint under 28 U.S.C. § 1915(e)(2) and dismissed the complaint with leave to
16 amend. The Court found that plaintiff failed to state a claim because he did not make clear what
17 illegal action the United States (the only defendant in this case) took against him. *Id.* at 3. The
18 Court instructed plaintiff that in amending his complaint he must: “**(1) add concise, clear
19 statements of the unlawful actions by defendant, including when these events happened and
20 with enough detail to make plaintiff’s claim against defendant plausible; AND (2) specifically
21 identify the claims that plaintiff is bringing against defendant.**” *Id.* at 6. The Court required
22 plaintiff file his amended complaint by December 21, 2018. *Id.*

23 Since the Court’s last Order, plaintiff has filed a Request for Service by U.S. Marshal on
24 Party-in-Interest (Docket No. 9), an Amended Complaint (Docket No. 10), and a Request for
25 Injunction and Appointment of Attorney/Amendment (Docket No. 11).

26 The Court now finds that the Amended Complaint fails to state a claim for which relief can
27 be granted. The Amended Complaint refers to various incidents that happened to plaintiff but still
28 does not include information about when these events happened or enough detail to make the claim

1 against defendant plausible. For instance, the Amended Complaint states that “defendant denied
2 plaintiff any meaningful opportunity to apply for a special-use permit to live in the forest” but does
3 not explain how defendant did this or what about defendant’s actions were illegal. *See* Am. Compl.
4 at 1. Plaintiff also states that “Defendant effected multiple false arrests grounded in plaintiff[’s]
5 trespass in the National Forest” but he does not provide details for when these arrests occurred or
6 how they were false arrests. *See id.* He mentions “water which plaintiff has been denied[,]”
7 “[d]eliberate gunfire intended to trigger known ophthalmic migraine condition[,]” “[a]ttempting to
8 break-into plaintiff’s 1966 VW BUG by smashing a wing window with a rock[,]” and
9 “[t]ransporting plaintiff over 20 miles from his vehicle, and forcing him to walk back to it, clothed
10 only in long underwear, in freezing temperatures”—but he does not explain when these events
11 occurred or who did these things to plaintiff. *See id.* at 4, 6.

12 The Court is not unsympathetic to plaintiff’s situation. But without more information, the
13 Court does not know if plaintiff has a legal claim against the United States. Most of plaintiff’s
14 Amended Complaint is spent on legal argument, such as a long discussion of the International
15 Covenant on Civil and Political Rights, which plaintiff himself says is “completely useless for
16 American citizens” because it does not allow for individual complaints. *See id.* at 2-4.

17 The Court will give plaintiff one last chance to amend his complaint to state a claim. If
18 plaintiff does not amend his complaint or the complaint continues not to state a claim, the Court will
19 dismiss this case with prejudice.

20 **In his Second Amended Complaint, plaintiff must focus on the facts, rather than on
21 legal argument. He must include concise, clear statements of the unlawful actions that he
22 alleges occurred, timelines for when these events happened, and information about who
23 committed the acts. If plaintiff wishes to file a Second Amended Complaint, he must do so no
24 later than February 13, 2019.**

25 The Court will not rule on plaintiff’s motion for appointment of counsel or request for an
26 injunction at this time. Plaintiff need not re-file his motion for appointment of counsel or request
27 for an injunction. The Court will rule on these requests once it has reviewed the Second Amended
28 Complaint. As the Court explained in its last Order, the Court also will not order service of the

1 complaint by the U.S. Marshals Service at this time. Once plaintiff files his Second Amended
2 Complaint, the Court will review it to determine whether it states a claim. If it does, the Court may
3 then order service by the Marshals.

4 Plaintiff may find it useful to contact the Legal Help Center, a free service offered by the
5 Justice & Diversity Center of the Bar Association of San Francisco. Help Centers are located at the
6 San Francisco and Oakland Courthouses and assistance is available by appointment. **To make an**
7 **appointment, call: (415) 782-8982. See also <https://www.cand.uscourts.gov/legal-help>.**

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9 **CONCLUSION**

10 Plaintiff's Amended Complaint is dismissed with leave to amend. **Any Second Amended**
11 **Complaint must be filed no later than February 13, 2019.**

12 **IT IS SO ORDERED.**

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14 Dated: January 16, 2019



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16 SUSAN ILLSTON
17 United States District Judge

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